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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/781,269	02/18/2004	Ronald Wevers	43225-44419AUSC	2057
24238	7590	04/06/2006	EXAMINER	
JENKENS & GILCHRIST 1401 MCKINNEY SUITE 2600 HOUSTON, TX 77010			PATTERSON, MARC A	
			ART UNIT	PAPER NUMBER
			1772	

DATE MAILED: 04/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/781,269

Applicant(s)

WEVERS ET AL.

Examiner

Marc A. Patterson

Art Unit

1772

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 03 April 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 25-42 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 25-42 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**  
**REPEATED REJECTIONS**

***Claim Rejections - 35 USC § 103***

1. The 35 U.S.C. 103(a) rejection of Claims 25, 30 – 33 and 39 – 40 as being unpatentable over Cheung et al (U.S. Patent No. 5,872,201) in view of Kolthammer et al (U.S. Patent No. 5,869,575) and Prevorsek et al (U.S. Patent No. 5,677,029), of record on page 2 of the previous Action, is repeated.
2. The 35 U.S.C. 103(a) rejection of Claims 26, 28 – 29, 34 – 38 and 41 – 42 as being unpatentable over Cheung et al (U.S. Patent No. 5,872,201) in view of Kolthammer et al (U.S. Patent No. 5,869,575) and Prevorsek et al (U.S. Patent No. 5,677,029) and further in view of Turley et al (U.S. Patent No. 6,190,768), of record on page 3 of the previous Action, is repeated.
3. The 35 U.S.C. 103(a) rejection of Claim 27 as being unpatentable over Cheung et al (U.S. Patent No. 5,872,201) in view of Kolthammer et al (U.S. Patent No. 5,869,575) and Prevorsek et al (U.S. Patent No. 5,677,029) and Turley et al (U.S. Patent No. 6,190,768) and further in view of Adur et al (U.S. Patent No. 4,957,968), of record 4, of the previous Action is repeated.

ANSWERS TO APPLICANT'S ARGUMENTS

4. Applicant's arguments regarding the 35 U.S.C. 103(a) rejection of Claims 25, 30 – 33 and 39 – 40 as being unpatentable over Cheung et al (U.S. Patent No. 5,872,201) in view of Kolthammer et al (U.S. Patent No. 5,869,575) and Prevorsek et al (U.S. Patent No. 5,677,029), 35 U.S.C. 103(a) rejection of Claims 26, 28 – 29, 34 – 38 and 41 – 42 as being unpatentable over Cheung et al (U.S. Patent No. 5,872,201) in view of Kolthammer et al (U.S. Patent No. 5,869,575) and Prevorsek et al (U.S. Patent No. 5,677,029) and further in view of Turley et al (U.S. Patent No. 6,190,768), and 35 U.S.C. 103(a) rejection of Claim 27 as being unpatentable over Cheung et al (U.S. Patent No. 5,872,201) in view of Kolthammer et al (U.S. Patent No. 5,869,575) and Prevorsek et al (U.S. Patent No. 5,677,029) and Turley et al (U.S. Patent No. 6,190,768) and further in view of Adur et al (U.S. Patent No. 4,957,968), of record in the previous Action, have been carefully considered but have not been found to be persuasive for the reasons set forth below.

Applicant argues, on page 4 of the remarks dated January 23, 2006, that there is no disclosure in Cheung et al of what materials might be combined with the compositions disclosed to make a multilayer structure.

However, as stated on page 2 of the previous Action, Kolthammer et al teach that a fiber comprising an ethylene interpolymer is equivalent to a polymer comprising an ethylene interpolymer and cotton (column 2, lines 35 – 44; column 17, lines 61 – 67; column 18, lines 1 – 8) for the purpose of obtaining a fiber which has high thermal stability (column 2, lines 35 – 44). One of ordinary skill in the art would therefore have recognized the advantage of providing for

the cotton of Kolthammer et al in Cheung et al, which comprises an ethylene interpolymer, depending on the desired thermal stability of the end product.

Applicant also argues, on page 4, that the absence of a disclosure of a tackifier in Cheung et al cannot be construed as a teaching of less than 5% tackifier.

However, the claimed invention is directed to a structure which is free from tackifier or which has less than 5 percent tackifier; furthermore, as a tackifier is an additive, the structure disclosed by Cheung et al does not comprise tackifier unless Cheung et al specifically disclose the addition of a tackifier.

Applicant also argues, on page 5, that Cheung et al fail to disclose the claimed drape.

However, as stated on page 3 of the previous Action, the claimed drape is taught by Prevorsek et al.

Applicant also argues, on page 6, that Kolthammer et al do not teach multilayer structures.

However, as stated on page 2 of the previous Action, a multilayer structure is disclosed by Cheung et al; furthermore, because Kolthammer et al teach a structure comprising an interpolymer composition, it would be obvious for one of ordinary skill in the art to provide for the cotton of Kolthammer et al in Cheung et al.

Applicant also argues, on page 6, that Kolthammer et al do not teach improved drape properties.

However, as stated on page 3 of the previous Action, improved drape properties are taught by Prevorsek et al.

Applicant also argues on page 7 that Prevorsek et al is related to particular patterns by which sections of fabric are held together, and does not teach the polymers of the claimed invention or the absence of tackifier.

However, as stated on page 3 of the previous Action, Prevorsek et al disclose a multilayer structure which is also a polymeric fibrous structure (column 5, lines 41 – 46); it would therefore be obvious for one of ordinary skill in the art to provide for the drape angle of Prevorsek et al in Cheung et al.

Applicant also argues, on page 7, that Prevorsek et al teaches that the drape properties of the fabrics therein are related to the manner in which the individual segments are connected; there is no teaching, Applicant argues, that the segments themselves have the recited drape angle.

However, even if that the drape properties of the fabrics therein are related to the manner in which the individual segments are connected, it is clear that the fabric has the recited drape angle.

Applicant also argues, on page 8, that the rejection is based on hindsight because it is formed of individual teachings that have been selectively culled from the prior art while ignoring the remaining disclosure of the references, and that the base reference lacks teachings with respect to nearly every limitation.

However, as stated above, motivation for the combination of Cheung et al, Prevorsek et al and Kolthammer et al is provided by the references; furthermore the base reference lacks teachings only with regard to drape angle and cotton.

Applicant also argues, on page 9, that Turley et al may contain up to 50 wt percent tackifier, and that Turley et al do not teach drape properties.

However, because Turley et al disclose 'up to 50 wt percent,' Turley et al disclose the use of no tackifier (0 wt percent); furthermore, as stated on page 5 of the previous Action, Turley et al teach, in the making of fiber or fabric from an ethylene interpolymers the use of an adhesive or the use of no adhesive between the fabric layers, and 40 percent by weight of a further polymeric component comprising styrenic block copolymer, low density polyethylene, which is an ethylene – olefin copolymer or propylene homopolymer for the purpose of making diapers, which are water impermeable clothing, from the fabric. One of ordinary skill in the art would therefore have recognized the advantage of providing for the adhesive or no adhesive of Turley et al in Cheung et al, Kolthammer et al and Prevorsek et al, which comprises an ethylene interpolymers, depending on the end product.

Applicant also argues, on page 11, that Adur et al is directed to adhesive compositions which are not suitable in the claimed invention.

However, as stated on page 6 of the previous Action, Adur et al teach the use of an adhesive elastomer comprising a polyethylene which is grafted with unsaturated carboxylic acid and isocyanate for the purpose of bonding polyolefin with no pretreatment. One of ordinary skill in the art would therefore have recognized the advantage of providing for the polymer of Adur et al in Cheung et al, Kolthammer et al Prevorsek et al and Turley et al, which comprises a polyolefin, depending on the desired pretreatment of the end product.

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

6. Any inquiry concerning this communication or earlier communications<sup>6</sup> from the examiner should be directed to Marc A Patterson whose telephone number is 571-272-1497.

The examiner can normally be reached on Mon - Fri 8:30 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Pyon can be reached on 571-272-1498. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

*Marc Patterson 4/3/06*  
Marc A. Patterson, PhD.  
Primary Examiner  
Art Unit 1772